

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**DAVID KENT THACKER, JR.,
PETITIONER,**

V.

**BOBBY LUMPKIN,¹
RESPONDENT.**

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A-23-CV-1073-RP

ORDER

Before the Court is Petitioner's *pro se* Petition for Writ of Habeas Corpus. Petitioner challenges his conviction out of the 207th Judicial District Court of Comal County. The Court dismisses the petition without prejudice for want of jurisdiction.

Petitioner previously challenged the same conviction in a federal petition for writ of habeas corpus. The Court dismissed it as time-barred on August 31, 2020. *See Thacker v. Lumpkin*, No. 5:20-CV-201 (W.D. Tex.). The Fifth Circuit Court of Appeals denied Petitioner a certificate of appealability. *See Thacker v. Lumpkin*, No. 20-50816 (5th Cir. Apr. 6, 2021).

Petitioner's current habeas corpus petition is successive. Before a second or successive petition for writ of habeas corpus is filed in the district court, an applicant must move in the appropriate court of appeals for an order authorizing the district court to consider the petition. 28 U.S.C. § 2244(b)(3). Pursuant to § 2244(b), the Court finds Petitioner's successive petition for writ of habeas corpus should be dismissed, because Petitioner has not obtained prior approval to file a successive habeas corpus petition. *See United States v. Fulton*, 780 F.3d 683 (5th Cir. 2015)

¹ Bobby Lumpkin, the current Correctional Institutions Division Director, is the proper respondent and is substituted.

(holding district court does not have jurisdiction to consider successive § 2255 motion and remanding to district court with instructions to dismiss successive motion for want of jurisdiction).

It is therefore **ORDERED** that Petitioner's Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE** for want of jurisdiction.

It is further **ORDERED** that a certificate of appealability is **DENIED**.

SIGNED on September 12, 2023.

A handwritten signature in blue ink, appearing to read "R. Pitman", with a long horizontal flourish extending to the right.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE